

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5019-01
Bill No.: HB 1529
Subject: Abortion; Children and Minors; Health Care; Health Care Professionals
Type: Original
Date: February 10, 2014

Bill Summary: This proposal changes the laws regarding sex education in schools and establishes the Compassionate Assistance for Rape Emergencies Act, the Birth Control Protection Act, and a women's health services program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$5,001,300 or Unknown)	(\$5,001,435)	(\$5,001,471)
Total Estimated Net Effect on General Revenue Fund	(\$5,001,300 or Unknown)	(\$5,001,435)	(\$5,001,471)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	5 FTE	5 FTE	5 FTE
Total Estimated Net Effect on FTE	5 FTE	5 FTE	5 FTE

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Insurance, Finance and Professional Registration**, the **Department of Mental Health**, and the **Department of Public Safety - Missouri State Highway Patrol** state there is no fiscal impact to their respective agencies.

Officials from the **Joint Committee on Administrative Rules (JCAR)** stated this proposed legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to Secretary of State's office for Administrative Rules is less than \$2,500. SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal with core funding. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

§170.015 - SEX EDUCATION IN PUBLIC SCHOOLS

Officials from the **Department of Elementary and Secondary Education (DESE)** assume this section would require the course materials to be based on peer reviewed projects that have been demonstrated to influence healthy behavior and be age appropriate. DESE is not aware of the existence of such peer review. Developing and administering a peer review process will result in unknown costs; however, DESE does not expect the costs to be significant.

ASSUMPTION (continued)

If the peer review indicates that new course materials and instruction will be required, school districts could incur significant costs to obtain and replace existing materials.

Officials from the **Kansas City Public School District** assume the proposal will have a minimal impact of \$100 to \$5,000 in the year implemented.

Officials from the **Francis Howell Public School District** state they have a regular curriculum review cycle. Any mandated changes would be handled through this process. There would be no additional fiscal impact beyond normal budgeted amounts.

Officials from the **Fulton Public School District** assume costs for curriculum materials would be minimal.

Oversight assumes the peer review process costs would be minimal, but costs could be incurred to produce new curriculum materials, if found to be necessary as a result of the peer review. Oversight will assume, for fiscal note purposes only, that costs are \$0 to (Unknown - Could exceed \$100,000) to reflect either no costs as a result of the peer review to Unknown costs to produce updated curriculum materials.

Oversight further assumes, based on responses from school districts, that any new curriculum changes needed as a result of this proposed legislation would not result in significant implementation expense and could be absorbed within the normal budget process.

Officials from the following school districts: Blue Springs, Branson, Caruthersville, Charleston R-I, Cole R-I, Columbia, Fair Grove, Harrison R-IX, Independence, Jefferson City, Johnson County R-7, Kirksville, Kirbyville R-V, Lee's Summit, Malden R-I, Malta Bend, Mexico, Monroe City R-I, Nixa, Parkway, Pattonville, Raymore-Peculiar R-III, Raytown, Riverview Gardens, Sedalia, Sikeston, Silex, Special School District of St. Louis County, Spickard R-II, Springfield, St Joseph, St Louis, St. Charles, Sullivan, Warren County R-III, and Waynesville did not respond to **Oversight's** request for fiscal impact.

No officials from the following charter school sponsors responded to **Oversight's** request for fiscal impact: The University of Missouri - St. Louis, University of Missouri, Southeast Missouri State University, the Missouri University of Science and Technology, St. Louis University, Washington University, the University of Missouri at St. Louis, the University of Central Missouri, and the St. Louis Public School District.

ASSUMPTION (continued)

Officials from the **Department of Health and Social Services (DOHSS)** provided the following assumptions regarding the fiscal impact of this proposed legislation:

§§191.713 & 191.714 - COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES (CARE) ACT

§§ 191.713.2. (3) & 191.714.5 - Complaints against health care facilities

DOHSS state that §191.713.2. (3) defines "health care facility" as "any urgent care center or facility that offers treatment for patients during normal business, after-business, or weekend hours and that is affiliated with a licensed hospital." DOHSS assumes this is a broad definition and could include outpatient clinics, urgent care centers and in some cases physician offices. The Division of Regulation and Licensure (DRL) is also unsure of the meaning of the term "affiliated"; this could be construed to mean "owned" by the hospital, "operated" by the hospital, etc. Further, §191.714.5 states "The department of health and senior services shall respond to complaints and shall periodically determine whether hospitals and health care facilities are complying with the provisions of this section." The Section for Health Standards Licensure inspects hospitals and responds to complaints about hospital care, but does not inspect or investigate complaints for all the other health care facilities that may fall under the definition of "health care facility". DOHSS is unable to determine how many facilities they do not currently regulate would fall under the definition of health care facility included in the legislation. DOHSS would be required to investigate complaints and periodically determine compliance at these additional facilities.

According to the Missouri State Highway Patrol Statistical Analysis Center, there were 1,510 forcible rapes reported in the state of Missouri during 2012. DOHSS has no way to determine how many of these could result in a complaint against a hospital or health care facility that they would be required to investigate as a result of the requirements in this legislation. Based on the current average time to complete a complaint investigation, any such complaints received would require 67 hours each to investigate. Based on these uncertainties, DRL believes the fiscal impact of this legislation is currently unknown.

If necessary, DRL will request the additional staff needed in the appropriations process after determining: (1) the increased number of facilities required to be periodically assessed for compliance, and (2) the increased number of complaints to be investigated at both hospitals and at the additional health care facilities. This section will result in an unknown, greater than \$100,000 fiscal impact to DRL.

ASSUMPTION (continued)

Oversight assumes any additional staff will be requested through the appropriations process, and, for fiscal note purposes only, will not assign fiscal impact for this provision of the bill at this time.

§191.714.3 - Informational Material

§191.714.3 requires DOHSS to develop, prepare, and produce informational material relating to emergency contraception and distribute that material to hospitals and health care facilities in the state. Currently, there are 128 hospitals in Missouri that report having emergency departments. DOHSS is unable to determine the number of urgent care facilities attached to hospitals since they are not licensed in Missouri. To ensure that an adequate number of brochures are provided for hospitals and urgent care facilities, 10,000 brochures will be printed. Printing costs for a tri-fold, four-process color brochure is \$0.10 per brochure, totaling \$800 (10,000 x \$0.08). The brochures would be distributed to hospitals and healthcare providers throughout the state. Mailing for an estimated 200 packets is \$600 (\$3.00/packet x 200 packets).

§191.714.5 - Administrative Penalties

This area requires the DOHSS to impose an administrative penalty on any health entity that is not in compliance. It is unknown as to how many violations would be reported pursuant to the Act which would require an administrative penalty. The cost of this to the Office of General Counsel is unknown, as it cannot be determined how many penalties will take place. It is assumed to be under \$100,000.

Oversight assumes hospitals and health care facilities are complying with the provisions of this section. Costs for investigations are assumed to be minimal. Any administrative fines levied would go to General Revenue, but should be also be minimal.

Officials from the following hospitals: Barton County Memorial Hospital, Bates County Memorial Hospital, Cedar County Memorial Hospital, Cooper County Hospital, Excelsior Springs Medical Center, Putnam County Memorial Hospital, and Washington County Memorial Hospital did not respond to **Oversight's** request for fiscal impact.

§192.980 - WOMEN'S HEALTH SERVICES PROGRAM

§192.980.1 tasks DOHSS with implementing a Women's Health Services Program by July 1, 2015. The proposed legislation calls for \$5 million dollars of initial funding for the program. DOHSS assumes this funding would be annually and include administrative costs and would

ASSUMPTION (continued)

begin in FY 2016. DOHSS assumes that these services would only be available to women that have no other payment source for these interventions; however, eligibility for services is not addressed in the legislation. In order to have the program ready to begin by July 1, 2015, the department would require four new positions beginning in FY 2015, in addition to ITSD staff. The required staff positions are as follows:

One Public Health Consultant Nurse (PHCN) (Grade A31, \$52,592) - The PHCN will identify qualified health providers who would be able to provide these comprehensive services. The PHCN would collect data on the number and types of services provided to evaluate program effectiveness. From the data collected, the program would be able to compare rates of STDs, HIV, late entry into prenatal care, unintended pregnancy, infant mortality, domestic violence, smoking, alcohol and drug use during pregnancy with rates prior to the implementation of this program to assess outcomes.

One Health Program Representative III (Grade A24, \$38,540) - This position will be necessary to provide support to the PHCN in data collection and assimilation, invoice processing, and communication.

One Health Educator II (Grade A22, \$35,840) - This position is needed to work with the program on the choice and development of patient education and pre-pregnancy counseling materials on the dangers of smoking, alcohol, and drug use during pregnancy; the education on sexual coercion and violence in relationship; and to work with the PHCN and HPR III in the development of the brochures.

One Senior Office Support Assistant (Grade A12, \$25,568) - This position is necessary for all communication and document development and mailing, including clerical support.

The Women's Health Services Program would provide the following services with estimated costs provided for each service:

Breast and cervical cancer checks: The current reimbursement rates used in the Show Me Healthy Women program are the rates being used for this assumption. These rates are based on the highest allowable Medicare rate for Missouri. All services are provided on an out-patient basis. The current cost for an initial visit for a breast and cervical cancer check is \$269. This cost covers the office visit, pelvic exam, clinical breast exam, screening mammogram, pap test, and cytopathology reading. The current cost for an annual visit after the initial visit would be \$234.

ASSUMPTION (continued)

Screening and treatment for sexually transmitted diseases (based on the Medicaid Fee Schedule): Screening for chlamydia and gonorrhea is \$73.94 for combo test. The costs for syphilis screening is \$5.50. If this test returns a positive result, a titer and confirmatory test are required at a cost of \$5.50 and \$13.94.

HIV Screening: The cost for HIV screening is \$29.34. If this test returns a positive result, a second test is required at a cost of \$25.43 (Western Blot, reflex on a screen reactive).

Voluntary choice of contraception, including natural family planning: This includes all inclusive family planning at a cost of \$40 (based on Medicaid reimbursement rates).

Infertility treatment: The cost of this treatment is unknown. In addition, the bill does not specify if the male partner is included in this treatment.

Patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy: DOHSS is unable to determine the time necessary to provide this services as it would be based on individual need. The cost of this counseling is unknown.

Education on sexual coercion and violence in relationship: DOHSS is unable to determine the time necessary to provide this service as it would be based on individual need. The cost of this is unknown.

Prenatal and other referrals: The bill does not specify whether this includes payment for the services provided by the referral agency or just providing information on available referral sources. The cost of this is unknown.

The eligibility requirements and different services that would be provided under the Women's Health Services Program are unclear; therefore DOHSS is unable to determine the number of women that would be served by the program.

The Information Technology Services Division (ITSD) will need to develop and/modify an existing application to assist DOHSS implement a women's health services program by July 1, 2015, and track the services provided under the program. The costs are estimated for consultant services for analysis, design development, testing and implementation of application needed to collect and store data. Information Technology (IT) Consultants will provide high-level database and programming skills to the application. The fiscal note response assumes consulting costs @ \$85.00/hr per current statewide consulting contract: \$353,600 for the first year and \$88,400 for the second year of implementation. In addition, a Computer Information Technology

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ASSUMPTION (continued)

Specialist II (\$62,150) is required to provide project management, development support and on-going administration/maintenance of application. Server and database yearly hardware and software maintenance are estimated at a cost of \$8,700 per year.

Oversight assumes an annual \$5,000,000 appropriation for this program would cover the costs of the program (health screenings, treatments, referral, family planning services, and education, and would also include costs associated with personal services and IT costs).

Officials from the **Springfield Police Department**, the **Jefferson City Police Department**, and the **Columbia Police Department** state there will be no fiscal impact on their respective departments.

Officials from the Boone County Sheriff's Department, Buchanan County Sheriff's Department, Clark County Sheriff's Department, Cole County Sheriff's Department, Independence Police Department, Jackson County Sheriff's Department, Platte County Sheriff's Department, St. Charles Police Department, St. Joseph Police Department, St. Louis County Department of Police, and the St. Louis Metropolitan Police Department did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
GENERAL REVENUE			
<u>Costs</u> - Department of Elementary and Secondary Education - Development of curriculum materials (§170.015)	\$0 or (Unknown - Could exceed \$100,000)	\$0	\$0
<u>Costs</u> - Department of Health and Senior Services (DOHSS) - Compassionate Assistance for Rape Emergencies (CARE) Act (§§191.713 & 191.714) Printing and Postage	(\$1,300)	(\$1,435)	(\$1,471)
<u>Costs</u> - DOHSS - Women's Health Services Program (§192.980) (Includes 5 FTE for DOHSS)	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>	<u>(\$5,000,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$5,001,300 or Unknown)</u>	<u>(\$5,001,435)</u>	<u>(\$5,001,471)</u>
Estimated Net FTE Change for General Revenue	5 FTE	5 FTE	5 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding sex education in public schools, establishes the Compassionate Assistance for Rape Emergencies (CARE) Act and the Birth Control Protection Act. It also requires the development of a women's health care program and establishes procedures for pharmacies dispensing prescriptions and over-the-counter medicines in certain situations.

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FISCAL DESCRIPTION (continued)

§170.015 - SEX EDUCATION IN PUBLIC SCHOOLS

This section of the bill requires any course materials and instruction relating to human sexuality and sexually transmitted diseases to be based on peer-reviewed projects that have been demonstrated to influence healthy behavior, be age appropriate, and meet the following requirements:

- (1) Show abstinence from sexual activity as the only sure way to avoid pregnancy or sexually transmitted infections. Currently, the materials and instruction must also reference the emotional and psychological consequences, possible academic results of pre-adolescent and adolescent sexual activity, and the advantages of adoption. This section removes these provisions;
- (2) Present students with the latest information on the benefits and side effects of all contraceptives and barrier methods to prevent pregnancy and reduce the risk of contracting sexually transmitted infections and other diseases;
- (3) Provide information regarding the vaccine for human papilloma virus. Currently a discussion of the consequences of pregnancy and the advantages of adoption is required; this section removes these provisions;
- (4) Encourage communication about sexuality between parents and their children;
- (5) Help students understand the stages of maturity and how alcohol and drug use can affect decisions about sexuality;
- (6) Help students develop skills in critical thinking, problem solving, decision making, and stress management in order to make healthy decisions about sexuality and relationships; and
- (7) Teach students about the dangers of sexual predators including online predators and how to behave responsibly and remain safe on the Internet and about the consequences of inappropriate text messaging.

Each school district or charter school must make the names and affiliations of presenters used in the school's human sexuality instruction available. This section repeals the provision that prohibits a school district or charter school from providing abortion services and an abortion provider from furnishing human sexuality instruction and curriculum.

FISCAL DESCRIPTION (continued)

§§191.713 - 191.714 - COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES (CARE) ACT

The bill establishes the Compassionate Assistance for Rape Emergencies (CARE) Act which requires that the standard of care for any health care facility that provides emergency care to sexual assault victims will be to give a victim information regarding emergency contraception, inform the victim of her option to be provided emergency contraception, and provide a complete regimen of emergency contraception if requested. The health care provider must follow federal Department of Justice protocols on HIV/STI screening and prophylactic treatment. An emergency health care facility must ensure that the victim is treated by a provider who has medically and factually accurate, objective information about emergency contraception.

The Department of Health and Senior Services (DOHSS) must:

- (1) Produce informational materials regarding emergency contraception for the prevention of pregnancy for distribution in any health care facility. The materials must be medically and factually accurate and objective; be clearly written and comprehensible; provide an explanation of the use, safety, efficacy, and availability of emergency contraception; and explain that it does not cause an abortion; and
- (2) Respond to complaints and periodically perform compliance checks on emergency health care facilities. If a facility is not in compliance, DOHSS will impose a \$5,000 administrative penalty for each woman who is denied the informational materials or who is not offered emergency contraception and a \$5,000 administrative penalty for failure to comply with the provisions of the bill with an additional \$5,000 penalty for every 30 days of noncompliance.

§192.980 - WOMEN'S HEALTH SERVICES PROGRAM

Subject to appropriation, the Department of Health and Senior Services must implement a women's health services program by July 1, 2015, through qualified health providers to reduce the number of unintended pregnancies. The initial funding for the program will be \$5 million. The services will include certain health screenings, treatments, and referrals; family planning services; and education.

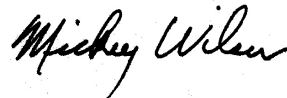
The Women's Health Services Program has a six-year sunset clause.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Department of Health and Senior Services
Office of Secretary of State
 Division of Administrative Rules
Office of State Courts Administrator
Department of Insurance, Finance and Professional Registration
Department of Mental Health
Department of Public Safety
 Missouri State Highway Patrol
Joint Committee on Administrative Rules
Local Law Enforcement
 Springfield Police Department
 Jefferson City Police Department
 Columbia Police Department
Local School Districts
 Kansas City Public Schools
 Francis Howell
 Fulton



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